



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable Bert Ford, Administrator,  
Texas Liquor Control Board  
Austin, Texas

Dear Mr. Ford:

Opinion No. O-6377

Re: Whether or not minor children, acting through the guardian of the estate, may receive a package-store permit, under the Liquor Control Board Act?

Your request for an opinion upon the above subject is as follows:

"Leon Kaufman of San Antonio, Texas, is administrator for the estate of his deceased wife and he is guardian for his two minor children who are children of his deceased wife. The two minor children inherited an interest in a package store belonging to the said Leon Kaufman and his deceased wife. Mr. Kaufman, as I understand it, now desires to close the administration on the estate of his deceased wife and secure a Package Store Permit from the Texas Liquor Control Board in his own name individually and in his name as guardian of the estates of the two minor children.

"Article 4174 of Vernon's Civil Statutes, with reference to continuation of business under the Chapter covering guardian and ward, reads as follows:

"If there be a farm, plantation, manufactory or business belonging to the estate, and if the same be not required to be at once sold for the payment of debts, the guardian of such estate, upon order of the court, shall carry on such farm, plantation, manufactory or business, or rent the same, as shall appear for the best interest of the

into consideration the condition of the estate, and the necessity that may exist for the future sale of such property for the payment of debts, or the education and maintenance of the ward, and shall not extend the time of renting such property beyond what may be consistent with the interests of the estate and of the ward.' (Acts 1876, p. 182, G. L. Vol. 8, p. 1018.)

"The first paragraph of Section 11, Page 9, of the printed Act reads as follows:

"'The Board or Administrator shall refuse to issue a permit to any applicant either with or without a hearing if it has reasonable grounds to believe and finds any of the following to be true:'

"Section 11(5), beginning at the bottom of Page 9, of the printed Liquor Control Board Act, reads as follows:

"'That the applicant is not of good moral character, that his reputation for being a peaceable, law-abiding citizen in the community where he resides is bad, or that he is under twenty-one (21) years of age.'

"Your valued opinion is requested as to whether or not Mr. Kaufman's two minor children, with Mr. Kaufman for their guardian, would be prohibited, under the last quoted section of the Act, because of their minority from having a Package Store Permit, provided that Mr. Kaufman is otherwise individually qualified."

It is the opinion of this department that Section 11(5) of the Liquor Control Board Act, as quoted by you, precludes the issuance of a permit, such as you mention. Mr. Kaufman in seeking a permit, as guardian of the estate of his minor children, would be acting in his fiduciary capacity and not for himself individually. It would in essence be the granting of a permit to the minors, therefore, in the name of their guardian. The statute specifically forbids the issuance of a permit to one under twenty-one years of age direct-

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ly, and certainly it does not contemplate the issuance of such permit to a minor indirectly. It is forbidden by necessary implication.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

*Ocie Speer*  
Ocie Speer  
Assistant

OS-NR

*Carl F. Bailey*  
APPROVED JAN 15 1943  
BERT FORD  
ATTORNEY GENERAL

